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Letter from the acting Secretary of the Interior, transmitting the report of the Surveyor-General of New Mexico on the New Mexico private land claim "Canada de Cochiti," No. 135, in the name of Antonio Lucero.

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CAÑADA DE COCHITI LAND CLAIM.

LETTER

FROM THE

ACTING SECRETARY OF THE INTERIOR,

TRANSMITTING

The report of the surveyor-general of New Mexico on the New Mexico private land claim "Cañada de Cochiti," No. 135, in the name of Antonio Lucero.

DECEMBER 17, 1884.—Referred to the Committee on Private Land Claims.

DEPARTMENT OF THE INTERIOR,
Washington, December 16, 1884.

SIR: Pursuant to the requirement of the 8th section of the act of July 22, 1854 (10 Stat., 308), I have the honor to transmit herewith the report of the surveyor-general of New Mexico on the New Mexico private land claim "Cañada de Cochiti," No. 135, in the name of Antonio Lucero.

A copy of the letter of the Assistant Commissioner of the General Land Office, forwarding the report to me, is also herewith.

Very respectfully,

M. L. JOSLYN,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., December 15, 1884.

SIR: I have the honor to forward herewith, to be transmitted to Congress for its action thereon, the report of the United States surveyor-general for New Mexico, in duplicate, in the case of the Cañada de Cochiti, the heirs and legal representatives of Antonio Lucero, claimants, being New Mexico private land claim No. 135.

Very respectfully, your obedient servant,

L. HARRISON,
Assistant Commissioner.

Hon. H. M. TELLER,
Secretary of the Interior.

CAÑADA DE COCHITI, No. 135. ANTONIO LUCERO.

UNITED STATES SURVEYOR-GENERAL'S OFFICE,
Santa Fé, New Mexico, Sept. 3rd, 1884.

I, Clarence Pullen, surveyor-general of the United States land office of New Mexico, do hereby certify the annexed copies of the following described papers are true and literal exemplifications from original papers on file in this office, viz:

- No. 1. Petition of J. G. Whitney.
- No. 2. Sketch map.
- No. 3. Old muniments of title in Spanish.
- Nos. 4, 5, and 6. Official translations.
- No. 7. Amended petition of claimant.
- No. 8. Letter from Fiske and Warren.
- Nos. 9 and 10. Testimony of witnesses.
- No. 11. Letter from Amado Chaves.
- No. 12. Testimony of Florencio Sandoval.
- No. 13. Opinion of Henry M. Atkinson, surveyor-general (printed).

In witness whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed at the city of Santa Fé, on the day, month, and year above written.

[SEAL.]

CLARENCE PULLEN,
Surveyor General.

ANTONIO LUCERO.—CAÑADA DE COCHITI.

To the Hon. Henry M. Atkinson, United States surveyor-general for New Mexico :

Your petitioners, the heirs and legal representatives of Antonio Lucero, deceased, respectfully represent:

That they are the owners of a certain piece or parcel of land situate in the county of Bernalillo, in New Mexico, known as the "Cañada de Cochiti grant," which grant was made to the said Antonio Lucero by the Spanish Government on the 2nd day of August, 1728, and juridicial possession thereof given on the 6th day of August, 1728, as will more fully and clearly appear from the original grant and title papers now on file in your office.

A sworn translation in English of said original grant your petitioners file herewith and make a part of this petition, and also present as sketch-map of the tract of land claimed under said grant to said Antonio Lucero, deceased, which sketch-map represents the said tract as accurately as is practicable without a survey, no survey having ever been made.

Your petitioners further state that the said Antonio Lucero and his heirs and legal representatives have continuously occupied the said grant, cultivating land thereon, and pasturing their stock from the date of said grant up to the present time.

Your petitioners present said title papers for your consideration and approval under the provisions of an act of Congress, approved July 22nd, A. D. 1854, p. v, U. S. Statutes, and ask leave to present other documentary evidence and oral testimony in proof of their title.

JAMES G. WHITNEY,
For himself and other legal representatives of Antonio Lucero, deceased.

[ES COPIA.]

VILLA DE SANTA FEÉ.
y Ag^{to} 2d de 1728.

Ante el señor Gobernador y capitan Grál de este Reyno de la nueba Mex^{co} se precento por el contenido.

Antonio Lucero vecino de la Villa de Alburq^q ante la grandesa de V. S. paresco por aquella via y form a que el Derecho me concede; y digo que por cuanto me hayo casado y con familia y no tener donde vivir, ante V. S. registro un pedaso de tierra Realenga que se halla en la mesa de Cochiti donde estubieron retirados los Yndios que se sublevaron para en el sembrar y labrar end ho pedaso de tierra dies anegas de Trigo y dos de mais, y para pastear mi ganado menor y caballada, y linda dha tierra por la parte del norte con el Pueblo Viejo de Cochiti, y por el Oriente con el Rio del Norte, y por el Sur con tierras de los naturales de dho Pueblo y por el Poniente con la sierra de Xemes con sus entradas y salidas abrevaderos usus y serbidumbres, y no siendo en perjuicio de tercero, se hade servir V. S. de aserme merced en nombre de su Majestad, por todo lo cual. A V. S. pido y suplico provea y mande como pido que recivire bien y merced, y juro por Dios nuestro señor no ser de malicia en lo nesecario, &c.

ANTONIO LUCERO.



Jemez Mountains

North

*Old Pueblo
of Cochito*

Rio del Norte

Lands of the Cochito Indians

*Sketch Map of the Canada de Cochito Grant
Bernalillo Co. N.M.*

Y por su S. S. vista la hubo por presentada y Registrada la tierra que la parte pide para cuyo efecto manda y mandó al Alcalde Mayor de San Felipe, Santo Domingo y Cochiti pase y reconosca dho. pedaso de tierra con citacion de los naturales de dho Bueblo y otros que aian inmediatos, y haviendo cualesquier opocicion se suspenda; y no haviendo enbaraso y siendo sin perjuicio de tercero que mejor derecho tenga se le hace la Merced en nombre de su Majestad y le metera en posesion R^l. y personal de vajo de los linderos que cita de la cual habiendola adquirido quieta y pasificamente no sea desposeido y la gose el y sus Erederos con advertencia que la pueble detro del termine que disponen Reales ordenansas, y hasi lo Decretó mandó y firmó por ante mi el presente secretario de Governacion y Guerra doy fé, y dada dha. posesion de volvera el original para que sele de Testimonio.

BUSTAMANTE.

Por mano dado del sör Governador y Capitan Grál.

ANTON° DE GRRUCIAGA,
Secretario de Governacion y Guerra.

En este Puesto de la Cañada de nuestra señora de Guadalupe, en seis dias del mes de Agosto del año de mil setecientos veinte y ocho, Yo el Alcalde mayor del Pueblo de Cochiti, Santo Domingo y San Felipe le di posesion en nombre de su Majestad, de las tierras que en esta Merced se dicen y moncionan al interesado, y haviendolas registrado, tome á Anton° Lucero de la mano y lo pasie por dha tierra en señal de Lexitima posesion, y no haviendo persona alguna que por mejor derecho la demandase la di por buena y en señal de verdad ago mi firma a costumbrada, ante los testigos de mi asistencia.

EL CAPITAN ANDRES MONTOYA.

Arruego de Josef Santiestevan.

ANDRES MONTOYA.

Es copia cierta fiel y Legal de los Documentos de merced que se refieren, los que por estar trunco y mui maltratados se ha sacado esta copia con bastante trabajo ante los testigos de mi asistencia quienes la bieron sacar corregir y en mendar de los instrumentos originales para que en todo tiempo conste presentados ante mi D. Juan Antonio Cavesa de Baca Alcalde maior de Cochiti y su Juris^a autorisandolos en devida forma en treinta dias del mes de Dbre del año de mil ochocientos dies y siete, y en Testimonio de verdad la firmé con los testigos como dho es de que doy fé.

JUAN ANTTO CABESA DE BACA. [Rubric.]

Asia JUAN ESTEVAN ARRAGON. [Rubric.]

Asia JUAN GONSALES. [Rubric.]

Asia SEBASTIAN SALAS. [Rubric.]
Asistencia LUIS M^a CABESA DE BACA.

Ante mi Dⁿ Juan Antoni Cabesa de Baca alcalde mayor de esta Juridicion de Cochiti y los testigos de mi asistencia ceden el mismo derecho q^e los legitimos crederos de esta merce en cuantos bivientes hayga en dho citio por aber contribuido todos en comun apagar el yporto de derechos de esta merse y para en todo tiempo coste lo firme como dho. es de que doy fe.

JUAN ANTTO CABESA DE BACA. [Rubric.]

Asia JUAN ESTEVAN ARAGON. [Rubric.]

Asia JUAN GONSALES. [Rubric.]

Asia SEBASTIA SALAS. [Rubric.]

Señor Alce. mor. Cappn. á Gera. Dn Antonio de Armenta.

Antonio Luzero de Godoi, Jose Antonio Luzero, Mig^l Luzero, Ynasio Luzero, Fran^{co} Luzero, Loreto Luzero, Xabier Luzero, Antonio Jose Labato, Ramon Gallego, Cayetano Montañó, Bernabe Gallego, Juan Epomuseno Luzero, Oriundos de este Reino Besinos y erederos atualesdel puesto de Nuestra Señora de Guadalupe Juridision de la Cañada de Cochiti ante Vmd. paresemos en la mejor forma que alla lugar y al nuestro con benga y de simos Señor por lo que cenos ase patente de nuestras tieras y dominios Catolicos ael fin ultimo que Nuestro then^{te} ce nos biene entrando en asernos en nuestras tieras y dominios una ceparasion para el fin de pastar en ello la corta cabalgadura que tenemos para el Real servicio de S. mag^d á quien Dios G^{ey}

mallor ceguridad á lo que desimos señor que ese favor de Nuestro Sⁿ then^{to} nos es mui doloroso—á dho. favor y bien que nos procura no somos con de sendidos por que Nuestros padres y abuelos nos de Xaron dho. sitio y gualmente a todos para que con la bendision de D^a y la de sus mercedes lo gosaramos todos sin que ninguno fuese pribado de ninguna asion con lo que a cada uno Dios fuera serbido darle.

Y por tanto á Vmd pedimos y suplicamos con el Mar Rendimiento de Nuestra obligacion ce sirba en determinar lo que allare en Justisia nos conbenga que en aserlo Recebiremos de Vmd gran merco y Justisia que pedimos y Juramo en debida forma de Dro. per Dios N. S. y la señal de la S^{ta} Cruz no ser de malisia este nuestro pedimento y en lo nesasario & A. A ruego de todos los espresados.

CAYETANO MONTAÑO. [Rubric.]

En bista del escrito resentado por los herederos del difunto An^{to} Luzero en que me haben patente el agrabio que se les hase en querer que el parage que llaman de la Cañada de en medio se quede solamente reserbado para Cavallerias por el pedimento ó suplica que hizo Antonio Gallego vecino de la expresada Cañada de Cochiti al Señor Coronel de Cavalleria Gov^{or} Politico y Militar Dⁿ Juan Bap^{ta} de Anza digo que abiendo yo el nominado Alc^o Mayor y Capitan á Guerra Dⁿ Antonio de Armenta dado parte á mi superior Gefé delo presentado por dhos. mensunados herederos me respondio á Señoría que una vez que se pone el comun de sus convecinos que gozen los expresados herederos de aquello que tan legitimamente es suio, pues deben ser perferidos a todo particular y mas quando por todas bias son los legitimos acredores a dicho sitio y era haserles un agrabio bien doloso imas quan^{do} estos tienen sus Ganados y mañana ú otro dia pueden pastarlos en el dhó. sitio como suio que es iquererselos impedir dho. Gallego con el pretesto de estar reserbado para solo Cavallerias porlo que no les acomodo dhá propuesta y ócurieron ami como su Alcalde Mayor para que si era Justo y si lo allaba por conbeniente el que se quedara para el fin que espone dicho Gallego les respondo que mas derecho les viene aellos por motivo de ser ellos los mas acredores por todos motivos que no un Indibiduo que por solo favor se le abia dado licencia para que criara unas pocas de obejas idehai quera llamar lo suio, sin tener ningun titulo ó documento que pudiera acreditarlo ser suio por lo qual ipor la facultad que me es conferida les doi el presente instrumento para que en qualquier tribunal ó Juez que sea presentado sean oydos en Justicia por el dró. que desde sus abuelos y Padres adquirieron por merced Real (que S. M. Dios le guarde) les hizo a dhos. sus a Buelos y para que asi conste en todo tiempo di el presente instrumento firmado de mi Mano y con los infraescriptos testigos de mi asistencia en este Pueblo de San Buena-ventura de Cochiti en dos dias del mes de Nobiembre de mil setecientos ochenta i cinco años a falta de escribano Pub^{co} ni real que de ninguna clase los hai en toda esta Governacion doi Fee.

ANTONIO DE ARMENTA. [Rubric.]

t^o JOSE DE ARMENTA. [Rubric.]

tt^o SIMON DE ARMENTA. [Rubric.]

VILLA DE SANTA FEE,
Y Agosto 2 de 1728.

Ante el S Governador Y capⁿ General deste Reino de la Nueva Mexico se present^o por el conthenido.

Ant^{to} Luzero * * * querque ante * * * resco por aqi * * * quel derech * * * por quanto * * * familia i no * * * ante Vss^a * * * so de tierra * * * en la mesa de Cochiti donde estubieron Retirados los indios que se sublevaron para en el senbrar i labrar en dicho pedaso de tierra dies anegas de trigo y dos de mais i para pastar sus ganado menor y caballada, i linda dha tierra por la parte del norte con el Pueblo viejo de Cochiti, y por el oriente con el Rio del Norte y por el Sur con tierras de los naturales de dicho pue * * * r el poniente con * * * de Xemes con sus * * * salidas abreva * * * y serbidunbres * * * do en perjuicio de * * * de serbir Vss^a de * * * terced en nombre * * * gestad por todo * * * lico provea i man * * * do que Resevire * * * rsed y juro dor Dios nuestro Sr. no ser de malisia en lo nesasario & a.

ANTTO. LUSERO.

Y por Su ss^a bista la hubo por presentada i Rejis * * * la tierra que la parte pide p^a quio efecto manda * * * do Al Alcalde maior de San Phelipe Santo Don * * * y Cochiti pase i reconosca dhope daso de tierra co * * * tasion de los naturales de dho Pueblo Y otros que ai * * * ynmediatos i aviendo qualquier oposision ses * * * penda; Y no abiendo enbaraso isiendo sinperju * * * de tersero que mejor drecho tenga sele ase * * * Mersed en nonbre de su Mag^d i le metera e * * * posesion R Y personal debajo de los * * * ros que sita de la qual abiendo la adque. * * *

I, Antonio Lucero, a citizen of the village of Alburquerque, appear before the highness of your excellency through that channel and form which the law concedes to me, and state, that whereas I am married and have a family, and having no place to live, I register before your excellency a piece of land, royal domain, which is situated upon the mesa of Cochiti, to which the Indians who rebelled retreated to plant thereon, and on said piece of land to cultivate ten fanegas of wheat and two of corn, and to pasture my small stock and horse herd, and said land, is bounded on the north side by the old pueblo of Cochiti, and on the east by the Del Norte River, and on the south by lands of the natives of said pueblo, and on the west by the Jemez Mountain, with its entrances and exits, watering places, uses, and customs, and it not being in prejudice of any third party your excellency will please to make to me a grant in the name of His Majesty. In consideration of all which I ask and pray that your excellency provide and order as I request, whereby I will receive benefit and grace, and I declare by God our Lord that this is not in dissimulation and as is necessary, &c.

ANTONIO LUCERO.

VILLAGE OF SANTA FÉ,
August 2, 1728.

This petition was presented by the party therein before his excellency the governor and captain general of this kingdom of New Mexico.

And the same being examined by his excellency he treated the same as presented, and the land which the party applies for being registered he, for that reason, does direct, and did direct, that the chief alcalde of San Felipe, Santo Domingo, and Cochiti, go and examine said piece of land, citing the natives of said pueblos and others who may live adjoining, and there being any opposition to cease, and there being no obstacle, and it being without prejudice to any third party having a better right, the grant is made to him in the name of his majesty, and he will be placed in royal and personal possession under the boundaries he refers to, and of which, having acquired the same quietly and peaceably, he shall not be dispossessed, and he and his heirs may enjoy the same, with the charge that he shall settle the same within the time the royal ordinances prescribe. And he thus provided, commanded, and signed before me, the present secretary of state and war, to which I certify, and said possession being given he will return the original so as to furnish him a duplicate.

BUSTAMANTE.

By command of his excellency the governor and captain general.

ANTONIO DE GUICIAGA,
Secretary of State and War.

At this place of the Cañada of our Lady of Guadalupe, on the sixth day of the month of August, in the year one thousand seven hundred and twenty-eight, I, the chief alcalde of the pueblos of Cochiti, Santo Domingo, and San Felipe, did give unto him, the party interested, in the name of his majesty, possession of the lands expressed and mentioned in this grant, and having registered the same, I took Antonio Lucero by the hand and conducted him over said land in sign of lawful possession, and there being no person whatever who, under a better right, might claim the same, I deemed it good, and in sign of the fact I make my customary signature before my attending witnesses.

CAPTAIN ANDRES MONTOYA.

At the request of José Santiestevan.

ANDRES MONTOYA.

It is a true, faithful, and legal copy of the documents of grant to which they refer, of which, as they are incomplete and very badly treated, this copy has been made with great labor before the witnesses of my attendance who saw it made, corrected, and amended from the original instruments, so that it may in all time so appear, and which were produced before me, Juan Antonio Cabesa de Baca, chief alcalde of Cochiti and its jurisdiction, I authenticating the same in due form on the 30th day of the month of December, in the year eighteen hundred and seventeen, and in testimony of the fact I sign the same with the witnesses aforesaid, to which I certify.

JUAN ANTONIO CABESA DE BACA.

Attending, JUAN ESTEVAN ARAGON.
Attending, JUAN GONZALES.
Attending, SEBASTIAN SALAS.
Attending, LUIS MA CABESA DE BACA.

Before me, Juan Antonio Cabesa de Baca, chief alcalde of this jurisdiction of Cochiti, and the witnesses of my attendance do cede the same right which the legiti-

mate heirs of this grant to all there may be living upon said tract, they having contributed all in common to paying the amount of fees for this grant, and that it may so appear in all time I signed this as aforesaid, to which I certify.

JUAN ANTONIO CABESA DE BACA.

Attending, JUAN ESTEVAN ARAGON.

Attending, JUAN GONZALES.

Attending, SEBASTIAN SALAS.

SURVEYOR-GENERAL'S OFFICE,
Santa Fé, New Mexico, May 13, 1881.

The foregoing is a correct translation made by me from the original in Spanish on file in this office in private-land claim file number 95, in the name of Antonio Luzero.

DAV. J. MILLER,
Translator.

His honor the Chief Alcalde and War Captain, Antonio de Armenta :

We, Antonio Luzero de Godoi, José Antonio Luzero, Miguel Luzero, Ygnacio Luzero, Francisco Luzero, Loreto Luzero, Xabier Luzero, Antonio José Lobato, Ramon Gallegos, Cayetano Montaña, Bernabe Gallego, Juan Epomuseno Luzero, natives of this kingdom, actual residents and heirs of the place of our Lady of Guadalupe, jurisdiction of the Cañada de Cochiti, appear before you in the best form having place and to ours proper and state. Sir, as it is patent concerning our lands and Catholic possessions as a final resort that our lieutenant is coming upon us by making a separation among us upon our lands and possessions, with the purpose of pasturing thereon the few cavalry we have for the royal service of his majesty, whom may God preserve, and for better protection, concerning which we declare, sir, that that favor of our lieutenant is very grievous. So that favor and benefit which he attempts for us we are not consented, for our fathers and grandfathers left the said tract to us equally to all, so that with the blessing of God and that of themselves we might all enjoy the same without any one being deprived of any right, which God may be pleased to grant to every one.

And therefore we ask and pray with the greatest submission to our duty that you be pleased to determine what you shall find is in justice due to us, for by so doing we will receive from you great grace and justice, which we seek; and we declare in due form of law by God our Lord, and the sign of the Holy Cross, that this our petition is not in dissimulation and as is necessary, &c.

At the request of all the aforesaid.

CAYETANO MONTAÑA.

In view of the petition presented by the heirs of the deceased, Antonio Luzero, in which they make patent to me the injury which is done them in desiring that the Cañada de en Medio, so called, remain reserved solely for cavalry, upon the petition or request which Antonio Gallego, a resident of the said Cañada of Cochiti, made to Don Juan Bantista de Anza, colonel of cavalry, civil and military governor, I state that, I, Antonio de Armenta, the said chief alcalde and war captain, having made report to my superior chief of what was presented by the said mentioned heirs his excellency answered me that any time that the community of their neighbors objected that the said heirs should enjoy what is so lawfully their own, for they should be preferred to every individual, and furthermore, when they are in all respects the legal heirs to said tract, it was doing them a harm very grievous; and, also, when these have their stock, and to-morrow or any other day may pasture them upon said tract, as their own, which it is, and said Gallego wanting to prevent them under the pretext that it is reserved for cavalry only. Wherefore they did not accede to that proposition and they came to me as their chief alcalde to know if it was just or if I found it to be proper that it should remain for the purpose that said Gallego states, I answer that more right attaches to them, for the reason of their being in all respects more entitled than an individual to whom, by favor, only had been given permission that he might raise a few sheep, and hence wanted to call it his own, without having any title or document which might accredit its being his; wherefore and under the authority which is on me conferred, I give them the present instrument, so that before any tribunal or judge it shall be presented they may be heard in justice, with the right which since their grandfathers and fathers, they acquired by royal grant, which his majesty (God preserve him) made to the aforesaid, their grandfathers.

And that it may so appear in all time I give the present instrument, signed with my hand and with the undersigned witnesses of my attendance, at this pueblo of San

Buenaventura de Cochiti, on the second day of month November, year one thousand seven hundred and eighty-five, for want of a public or ooyal notary, as there is none of any kind in all this jurisdiction, I certify.

ANTONIO DE ARMENTA.

Witness:

JOSÉ DE ARMENTA.

Witness:

SIMON DE ARMENTA.

SURVEYOR-GENERAL'S OFFICE,
Santa Fé, New Mexico, May 13, 1881.

The foregoing is a correct translation made by me from the original in Spanish on file in this office in private land-claim file number 95, in the name of Antonio Lucero.

DAVE J. MILLER,
Translator.

[Translation.]

ANTONIO LUCERO—CAÑADA DE COCHITI GRANT.

I, Antonio Lucero * * * querque before * * * appear through that * * * which the law * * * whereas * * * family and not * * * before your excellency * * * cel of land * * * upon the mesa of Cochiti, to where the Indians who rebelled retreated to plant thereon, and the said piece of land will contain about ten fanegas of wheat and two of corn, and to pasture my sheep and horse herd; and the said land is bounded on the north side by the old pueblo of Cochiti, and on the east by the Del Norte River, and on the south by the lands of the natives of said pue * * * the west with * * * of Jamez with its * * * exits watering * * * and rights of way * * * ing in prejudice of * * * your excellency will be pleased to * * * grant in the name * * * jesty for all * * * quest provide and ord * * * for I will receive * * * grace; and I declare by God our Lord that this is not in dissimulation, and as is necessary, &c.

ANTONIO LUSERO.

VILLAGE OF SANTA FÉ, *August 2, 1728.*

This petition was presented by the party therein before his excellency the governor and captain-general of this Kingdom of New Mexico.

And the same being examined by his excellency he treated the same as presented and regis * * * the land which the party asks, and for which purpose he ordered * * * ed that the chief alcalde of San Felipe Santo Dom * * * and Cochiti to proceed and examine said piece of land by * * * tation of the natives of said pueblos and others who may live near, and there being any opposition to suspend and there being no impediment, and it being without prejudice to a third party having a better right the grant is made to him in the name of His Majesty, and he will be placed in royal and personal possession under the boundaries he refers to, and of which having acquired it * * *

SURVEYOR-GENERAL'S OFFICE,
Santa Fé, New Mexico, August 15, 1882.

The foregoing translation was made by me from the original in Spanish now on file in this office in private land-claim No. 95, in the name of Antonio Lucero, and is correct.

DAV. J. MILLER,
Translator.

To Hon. H. M. ATKINSON,
U. S. Surveyor-General, New Mexico :

Your petitioners, the legal representatives of Antonio Lucero, respectfully represent that prior to the second day of August, A. D. 1728, said Lucero, in due form, petitioned the proper Spanish authorities in New Mexico to grant to him the tract of land called the Cañada de Cochiti, with boundaries—on the north, the old pueblo of Cochiti; on the east, the Rio del Norte; on the south, the lands of the natives of said pueblo; and on the west by the Jemes Mountains. That on the second of August, A. D. 1728, the said tract of land was granted to said Antonio Lucero by Bustamente, then governor and captain-general of New Mexico under Spain; that, thereafter, on the sixth day of August, A. D. 1728, juridical possession of said Cañada de Cochiti was given to said Antonio Lucero, with the boundaries aforesaid, by Andres Montoya, then chief alcalde of the pueblo of Cochiti, Santa Domindo, and San Felipe; that by virtue

of these proceedings, said Antonio Lucero acquired, under the laws, usages, and customs then in force in this Territory, a perfect title to all the land within the boundaries aforesaid; that the present claimants are James G. Whitney and J. P. Whitney; that said grant is situated in the county of Bernalillo, in the Territory of New Mexico; that said grant has never been surveyed, and your petitioners are therefore unable to state the quantity of land claimed further than that they claim under said grant all the land within the boundaries therein described; that no survey having been made of said Cañada de Cochiti grant, your petitioners are unable to state what conflicts, if any, there may be between the boundaries of said grant and those of other grants of land made by Spain or Mexico, but your petitioners believe that there is no valid conflicting claim on the part of any grant to any portion of said grant to Antonio Lucero.

To establish the validity of said grant your petitioners refer to the title papers of said grant, on file in your office, and to such of the documents, also on file in your office, as were executed or signed by the Spanish officials whose names appear on such title papers. Your petitioners also refer to the laws, orders, and decrees of the Spanish Government and officials in force at the date of said grant as the same appear in White's Recopolacion, and on file in the Spanish archives in the possession of the Government of the U. S. at Santa Fé, New Mexico; to the usages and customs then in force in New Mexico, and to such further documentary evidence and the testimony of such witnesses as they shall hereafter present to you.

Upon satisfactory proof of the validity of the Cañada de Cochiti grant, we respectfully ask it may be approved by you and transmitted to the Congress of the U. S. for confirmation.

Respectfully,

FISKE & WARREN,

Att'ys for J. P. and J. G. Whitney, Claimants.

SANTA FÉ, June 2nd, 1883.

Hon. H. M. ATKINSON,
Sur. Gen'l of N. M., Santa Fé, N. M.:

SIR: As attorneys for Mr. James G. Whitney *et al.*, owners of the Cañada de Cochiti grant in N. M., now pending for recommendation under the act of 1854, before you, we respectfully ask that the testimony of Florencio Sandoval a witness for contestants in the matter of boundaries of said grant, be stricken from the record, because no opportunity to cross-examine said witness has been afforded Mr. Whitney and other owners of said grant or their attorneys.

Respectfully,

FISKE & WARREN,

Att'ys for James G. Whitney et al., owners of the Cañada de Cochiti grant

In the matter of the investigation of the Cañada de Cochiti grant, being file number 95, held at the office of the United States surveyor-general, this 21st day of July, 1882.

There were present H. M. Atkinson, surveyor-general, Ireneo L. Chaves, sworn as special interpreter, and J. G. Whitney, claimant, with E. A. Fiske, his attorney.

FELIPE SANDOVAL, having been first duly sworn, deposeth and saith:

Question. State your name, age, occupation and place of residence.—Answer. My name is Felipe Sandoval; age fifty-four years; am a farmer and justice of the peace at Peña Blanca, and live at Peña Blanca, in Bernalillo County, Territory of New Mexico.

Q. How long have you resided there?—A. Since 1849; during that time I have been absent 8 years.

Q. Are you acquainted with a grant known as the Cañada de Cochiti; if so how long have you known it and where is it situate?—A. Yes I am; I have known it since 1866 or 1867; am not positive of the date. It is situated in the Cañada de Cochiti, in Bernalillo County, Territory of New Mexico.

Q. How do you know of the existence of such a grant?—A. Because I brought the original papers to the surveyor-general's office, as a commissioner for the grantees.

By Mr. FISKE:

Q. The original grant papers were shown the witness and asked if these were the original grant papers deposited by him with the surveyor-general.—A. Yes.

Q. From whom did you obtain the papers?—A. I obtained them from the people, I having been appointed a commissioner by the people residing on the grant.

Q. How long have these papers been in possession of the people who reside on the grant?—A. To my knowledge they have had possession of these papers since 1849.

Q. Are you acquainted with the general reputation among the people residing on this grant or vicinity, as to the time the grant papers have been in possession of the grant owners?—A. Yes.

Q. What is that reputation with reference to the time these papers have been in the possession of the owners?—A. The grant is generally understood to be over a century old from the time it was given. They had it in their possession.

Q. There was a copy of these grant papers made on the 30 of Dec., 1817, certified to by one Antonio Cabeza de Baca; state whether or not that copy was also deposited by you with the surveyor-general.—A. I don't remember whether I brought said copy or no.

Q. Do you remember what papers you brought to the office of the Surveyor-General at the time mentioned?—A. I do.

Q. (Witness now shown a paper purporting to be a certified copy of the grant, certified by one Antonio Cabeza de Baca, on the 30 day of December, 1817, and he was asked) Is that one of the papers you deposited with the surveyor-general at the time and in the manner above mentioned?—A. Yes.

Q. Where did you get that certified copy?—A. It was given to me by the people as a commissioner to present it to the surveyor-general.

Q. When did you first see this certified copy?—A. I saw the certified copy at the same time I saw the other grant papers in 1849.

Q. Is there any general reputation among the people residing on the grant or vicinity as to the time this certified copy has been in the possession of the grant owners?—A. Yes.

Q. What is that general reputation as to the length of time this certified copy has been in the possession of the owners?—A. It is generally reputed to be in their possession since it was made.

Q. Did you know one Antonio C. de Baca, who made this copy?—A. I did not know him.

Q. Do you know when he died?—A. Do not know. I did not know him.

Q. How long have the owners of that grant been in possession of it, so far as you know?—A. Since the year 1849. I lived in Santa Fé prior to that time. In 1849 I went to said place to get married. I then saw the place for the first time.

By SURVEYOR-GENERAL:

Q. You state that the papers in this case you obtained from the owners of the grant to bring here and file; from whom did you obtain them?—A. I obtained said papers from Manuel Lucero, José Juan Lucero, Martin Lucero, Tellesforo Lucero, Francisco Lucero, José Ma. Lucero, José Antonio Sandoval, Juan Teodoro Lucero. The papers were handed me by Francisco Lucero.

Q. Did you read the papers at that time, or any other?—A. I read the copy, and a few words of the original.

Q. What was the purport of the copy?—A. It was a copy of the original grant, the original being torn and hard to read.

Q. When you was there in 1849 did you see any grant papers at that time?—A. Yes.

Q. What were the circumstances under which you saw them?—A. My father-in-law had the papers, and he showed them to me.

Q. Who was your father-in-law?—A. Antonio Serafin Lucero.

Q. Was he one of the owners of the grant?—A. He was one of the heirs of the grant.

Q. What relation was he to the grantee?—A. He was great-great-grandchild of the grantee.

Q. Then you and your wife inherited a portion of this property?—A. Yes.

Q. You are, therefore, an interested party to the investigation?—A. My wife had an interest in the grant, and sold it.

Q. When you sold, what was the nature of the deed that you made to the party purchasing, was it quitclaim or a warranty deed?—A. I sold my part of the grant, thinking the title to same was all right.

Q. Here was shown the witness a deed in Spanish, containing a covenant of a general guaranty, and he was asked if it is a similar deed to that executed by himself and wife to the purchaser of his wife's interest.—A. It was.

Q. Are you certain that the papers shown you this morning, the Spanish documents, are the same that you delivered here for the grant owners?—A. Yes, they are the same.

Q. How do you know they are the same?—A. Because I had them in my hand now, and had them before.

Q. I want to know how you know; do you know from any mark on the papers, or from reading them?—A. Because when I saw the papers before they had the names of

Juan Antonio C. de Baca, Juan Armijo, Esteban Aragon, and the paper contains the same names now.

Q. Is that the only way you know them?—A. Also by the name of the grantee.

Q. Did you ever read the papers all through?—A. I read them all through, but do not remember all the contents thereof, as it is many years since.

Q. You state in your direct examination that you did not remember whether or not you ever brought a copy of this papers to the surveyor-general's office; now what are the facts about it?—A. I do not remember whether I brought a copy or no, but I believe the copy was with the papers I brought.

Q. You state that the general reputation in regard to the time the grant papers were in the possession of the owners, was that they were in their possession from the time they were executed. Now state from whom you derived such information, name the parties?—A. Antonio Serafin Lucero, Manuel Lucero, José Juan Lucero, Meregeldo Lucero, Laureano Lucero, Pablo Lucero, Telesforo Lucero, José Maria Lucero, Juan Teodoro Lucero, Francisco Lucero, José Lucero, Cristobal Lucero, from the above persons I derived the information that the grant was in the hands of the owners since it was made.

Q. When and where did Antonio Lucero tell you anything about it?—A. At Peña Blanca in 1849.

Q. When and where did Manuel Lucero tell you anything about it?—A. At Peña Blanca, at the same time, he being a brother of Antonio Lucero.

Q. When and where did José Juan Lucero tell you anything about it?—A. I cannot tell what day or what year, but it was since 1849, when all have told me about it, José Juan Lucero told me about it at Cochiti, after I was married, in the year 1849; do not remember the day or year.

Q. All these parties you have named claim to be interested in the grant, are they not?—A. They are all heirs of the grant.

Q. Did you ever hear any one else in conversation with you say anything about the time the papers have been in the possession of the owners?—A. I have been told also by Manuel Hurtado that the people of the Cañada de Cochiti lived on the grant for many years. I heard that long before I was married.

Q. Was he interested in the grant?—A. I do not know.

Q. Were there any other parties with whom you held any conversation on the subject of those papers?—A. If I am to name all the persons I would have to name all the people of Peña Blanca. I heard Antonio Terrioteo Armijo speak about these papers. I did not write a history of the case, and therefore do not remember exact dates. I heard him speak about the papers, but do not know whether it was in the years of 1849 or 1850, or afterwards.

Q. What did this man say about them; state the conversation, and how did he come to mention it?—A. Talking about the feast of Guadalupe he said, many years past he used to go to the feast at that place. He said that when they used to go there, there were great many people there, and that Loreto Lucero had many cattle and the Navajo Indians drove them all away and killed him in his house. He said nothing about the papers, simply said they lived on a grant.

Q. Was this conversation about the grant papers before or after you first saw them?—A. My father-in-law spoke to me about them before I saw them the first time, and then showed the papers to me. The other parties I heard speaking about them afterwards.

Q. Is it not a fact that when these parties spoke of the papers generally, that the copy was never referred to as distinguished from the other papers?—A. They spoke about the copy, but José Jon called it "Patrio Real."

Q. Is it not a fact that the first you knew of your own knowledge about the copy was this morning when it was shown you?—A. I knew of the copy, but did not know whether it had been brought here with the other papers or not until I saw it this morning.

Q. Then you do not know whether you brought the copy here with the other papers or not, as it might have been left here by some other person, might it not?—A. I do not know whether I brought it or not. It might have been brought by some one else.

Q. Then you really know nothing about the copy, of your own knowledge, except what you have acquired to-day?—A. I saw it in the hand of my father-in-law, and can prove it if so required.

Q. When and where did you see it in his possession?—A. I saw it at Peña Blanca, at his house, in the year 1849, when I was married; I read it at that time.

Q. How far is Peña Blanca from this grant?—A. Am not sure, but think it is about five or six miles.

Q. How long did you live in Peña Blanca?—A. Lived at Peña Blanca all the time since 1849, with the exception of 8 years I lived in Conejas, Colo.

Q. Were you ever at the Cañada on the grant?—A. I have been there many times to see my father-in-law.

Q. Did your father-in-law live on the grant or at Peña Blanca?—A. He lived on the grant for a short while; he moved to Peña Blanca, but returned to the grant.

Q. Do you know anything about the boundaries of the grant? If so, state what they are?—A. The eastern boundary is the Rio Grande; the west boundary the top of the Jemez Mountains; the north boundary is the old pueblo of the Cochiti Indians, and the southern boundary is where the line touches the league of the Indian of Cochiti of the present pueblo.

Q. In what direction from the new pueblo is the old pueblo of Cochiti; and how far?—A. I have no personal knowledge of the old pueblo. I gave the boundaries as I saw them in the grant papers, and was told so by old people there.

Q. Did you ever see the west boundary of the grant?—A. No.

Q. How do you know that these are the boundaries of the grant?—A. Because it is so stated in the grant.

Redirect examination by Mr. FISKE:

Q. You state that you are not positive whether you brought that copy here or not of the grant papers; what is the best of your recollection and belief on that subject?—A. I am not sure whether I brought the copy or not, but to the best of my knowledge and belief, I think I brought said copy with the papers of the grant.

Q. Do you recollect bringing a paper with those papers, that was signed by Juan Antonio C. de Baca?—A. I do not know whether I brought a paper signed by Juan Antonio C. de Baca, but at the time I heard Mr. Ellison, then acting as interpreter, mention the name at the surveyor-general's office.

Q. How did Mr. Ellison come to mention that same?—A. When I came to the surveyor-general's office I saw Mr. Ellison holding the paper, and heard him mention the name of Juan Antonio C. de Baca; I suppose he read it from the paper.

Q. Did you take a copy of the papers you brought at the time you brought them?—A. Yes.

Q. Where is that copy now?—A. The copy and receipt are in the hands of Pablo Lucero; Pablo Lucero is at the Cañada de Cochiti.

Q. Who made that copy and receipt?—A. The copy and receipt was handed me by Mr. Ellison, and the receipt was signed by the surveyor-general.

(Witness here was handed a paper purporting to be the record of the legal proceedings concerning the Cochiti grant, before Antonio B. Armenta, and was asked if this was one of the papers brought by him to the surveyor-general's office in 1866 or 1867.)

Q. (The witness was now shown the Spanish document purporting to be a copy of the original grant papers of the Cañada de Cochiti grant) and was asked when and where he saw this paper if he ever saw it before.—A. (The witness examines the paper and states) I saw this paper in the hands of my father-in-law at Peña Blanca in 1849, and have seen it since at various times.

Q. State if you can the various dates and places since 1849 which you have seen this paper, and in whose possession it was when you saw it.—A. After my father-in-law died the papers fell into the hands of Francisco Lucero, and then they came in my possession, when myself and Roman Baca, as commissioners, brought the papers to the office of the surveyor-general with Sam Ellison. These persons were all heirs to the grant. At that time the heirs of the grant had a meeting and named a commission composed of myself and Roman Baca, to bring the papers of the grant to the office of the surveyor-general; Mr. Ellison also came with Roman Baca and myself; it is possible that he was also a commissioner, but I do not remember.

By the SURVEYOR-GENERAL:

Q. Who brought the papers, you or Roman Baca?—A. I brought the papers to Santa Fé and delivered them to Mr. Ellison, who delivered them to the surveyor-general, and I was present when he delivered them to the surveyor-general.

Q. When the papers were handed you to bring here, were they wrapped up or sealed?—A. They were wrapped up in a handkerchief.

Q. Did you undo them when you were on the way?—A. No.

Q. Then when you received and delivered them they were wrapped up in a handkerchief?—A. Yes; they were wrapped in a handkerchief when I handed them to Ellison; he opened them and handed to the surveyor-general.

Q. Did you examine or read them after they left your possession, after you handed Mr. Ellison the package?—A. The surveyor-general showed the papers to me after Mr. Ellison delivered them to him. I did not read them, but glanced over them and saw they were the same papers.

Q. Who was the surveyor-general at that time?—A. I do not remember, but I have a receipt with his name signed to same.

his
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mark.

Subscribed and sworn to before me this 21st day of July, A. D. 1882.

HENRY M. ATKINSON,
Surveyor-General.

Adjourned to ten o'clock a. m., July 22, '82.

Investigation resumed pursuant to adjournment this July 22, 1882.

Present, H. M. Atkinson, surveyor-general; Ireneo L. Chaves, special interpreter; E. A. Fiske, attorney for claimant.

MARIANO SALAS, being duly sworn, deposeth and saith:

By Mr. FISKE:

Question. Will you state your occupation, residence, and year in which you was born?—Answer. My name is Mariano Salas; am a farmer by occupation; I was born in the year 1808; my residence is at a place called La Bentana, on the Rio Puercos Bernalillo Co., New Mexico.

Q. Where were you born?—A. I was born at La Cañada de Cochiti, within the limits of the Cañada de Cochiti grant.

Q. From 1808 for how many years did you reside on the grant?—A. I resided there about 28 years after 1808.

Q. Who were in possession of that grant, if anybody was in possession of it?—A. There were many people living there then, and I suppose they all were heirs to the grant.

Q. Was there any one at that time who owned an interest in the grant?—A. My father and grandfather lived there, and they were heirs to the grant.

Q. Were there any other persons at that time who were heirs of the grantees?—A. There were several others who claimed to have been heirs of the grantees living on the grant.

Q. You say you were residing on the grant in 1817?—A. Yes.

Q. Who was alcalde of that jurisdiction in that and the following year?—A. I think the alcalde then was Esteban Aragon, though I am not positive.

Q. Who was the first alcalde of that jurisdiction you have any recollection of?—A. The first alcalde I knew of there was Juan Antonio C. de Baca.

Q. In what year did Juan Antonio C. de Baca die?—A. He died in 1821.

Q. Was he alcalde at the time of his death?—A. I believe he was alcalde at that time.

Q. For how many years prior to that time was he alcalde?—A. He was alcalde, I believe, from the time I reached the age of reason up to the time of his death.

Q. Were there any town in existence on this grant in 1821?—A. There was a town on the grant then; the same town is there yet.

Q. Was there but one town in 1821?—A. There were two towns then, but one had been abandoned on account of the great danger of Indian depredations.

Q. Who has been in possession of that grant since you knew it?—A. José Juan Lucero, Cristobal Lucero, Laureano Lucero, Telesforo Lucero, and all their relatives.

Q. Were those persons heirs of the grantees?—A. They were heirs of the grantees.

Q. Within what boundaries did they have possession under that grant?—A. North boundary, El Rito de las Frijoles; south boundary, the league of the Cochiti Indians; eastern boundary, the Rio del Norte, and the west boundary is the top of the Jemes Mountain.

Questions by the SURVEYOR-GENERAL:

Q. Can you read or write?—A. I can read some but cannot write.

Q. Can you read writing?—A. I cannot read writing.

Q. How do you know there is such a grant as the Cañada de Cochiti?—A. Since I was born I heard my father say there was such a grant, and some of the other people there, they also gave the boundaries.

Q. Then all you know about it is what some one else has told you?—A. I know it because I lived there and have been through the grant many times.

Q. Did you ever see any documents of title or any other evidence of this grant?—A. I never saw any.

Q. Then how do you know of your own knowledge that there ever was a grant there?—A. I only know what my parents told me.

Q. Then you know nothing about the grant except what you have been told?—A. I only know what I have been told.

Q. How many people lived on the grant when you first knew it?—A. There lived a large number of people on the grant at the Cañada de Cochiti.

Q. Can you state upon your own knowledge that any of these parties about whom you have testified as living on the grant and being heirs of the grantees were such heirs?—A. I know of my own knowledge that they were heirs.

Q. How do you know it?—A. I knew them to be heirs because they had possession of the land and claimed the right to it.

Q. Is that the only way you know it?—A. Yes, sir.

Q. How do you know that Juan Antonio C. de Baca was alcalde of that jurisdiction when he died in 1821 and previous thereto as you have testified?—A. Because he sent a campaign at that time against the Navajos.

Q. Is that the only means you have of knowing that he was alcalde at that time

and previons?—A. Yes; that is the only means I have of knowing that he was alcalde then and prior to that time.

Q. How do you know what the boundaries of the grant are?—A. Because my father told me what the boundaries were, and I have seen them since.

Q. How far is it between the north and south boundary?—A. There are, more or less, about six leagues.

Q. Then the north boundary is about seven leagues from the present pueblo of Cochiti?—A. Yes; it is about seven leagues, more or less.

Q. How far is it from the Rio del Norte, the east boundary, to the west boundary?—A. There are about seven leagues, more or less.

Q. What mountain is it that is called Sierra de Jemez?—A. The highest mountain west of the Rio del Norte is the Sierra de Jemez.

Q. In what direction is the Jemez Mountains from the present pueblo de Jemez?—A. It is to the east of the pueblo of Jemez—this side.

Q. How long has that been known as the Jemez Mountains?—A. Since the time people first inhabited the Cañada de Cochiti.

Q. Where are the Valles Mountains?—A. On the same range of the Valles Mountains.

Q. Are there any other mountains between the Jemez Mountains and the Rio Grande on the east?—A. There are no mountains, but there are mesas and wooded hills.

Q. You inherited interest in this grant from your parents, did you not?—A. Yes, sir.

Q. Then you have an interest in the grant?—A. Yes; I have there my property and that of my parents.

Q. Where have you resided since you moved from the grant in question?

(This question was suggested by Judge Downs, counsel for claimants.)

(Objection made to question and answer thereto, unless Judge Downs appears in the case for some interested party.)

A. I moved to Santa Fé from Cañada de Cochiti, and lived there 9 years; then went to Peña Blanca, about two and a half leagues from the grant; moved to La Bentana. I lived there ever since.

Redirect examination by Mr. FISKE:

Q. State, if you know, what high or prominent hills or mountains there are on the Cañada de Cochiti grant, going from the Rio Grande River, the east boundary of the grant, going west to the Sierra de Jemez; commence at the east boundary and describe them in the order from east to west.—A. The first mountain is called Surreta de San Miguel; it is very high. The next going west is a peak called "Cerrito de las Balitas"; this peak is high but not as high as the first named. The next mountain going west is called "Ceno del Chato"; it is not very high. From there going west there are no mountains until you reach the Sierra de Jemez.

Q. During the time that you testified that Juan Antonio Cabeza de Baca was alcalde, state whether or not the people who resided on the Cañada de Cochiti grant and vicinity generally recognized him as the legal alcalde of that jurisdiction.—A. Yes; all the people there recognized him as the legal alcalde there.

By SURVEYOR-GENERAL:

Q. How did the people of the Cañada de Cochiti recognize him as alcalde?—A. Whenever the Indians committed any depredation he used to send the people after them and they always obeyed him.

Q. Is that the only way you know they recognized him as alcalde?—A. Yes.

Q. What year was it that he ordered them to fight the Navajos?—A. I heard that they were sent in the year of 1819 and 1820; he died in 1821.

Q. Then you derived your knowledge of what you testified to from others who told you about it?—A. I knew personally that he was alcalde then, because he nominated my father to go on the campaign; I was there and saw it.

Q. Did you hear the alcalde direct your father to go on the campaign?—A. He was ordered out by the constable by order of the alcalde.

Q. What did the constable say to your father?—A. He told him to get ready with his arms and provisions to go out on the campaign against the Navajos.

Q. How old were you then?—A. About nine or ten years.

Q. And that is the reason you state he was alcalde, is it?—A. That is the reason I knew he was alcalde.

Questions by Mr. FISKE:

Q. During the time mentioned that you knew him as alcalde, did he do any other official act as alcalde that you know of in addition to those you testified to?—A. I do not know.

his
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mark.

Subscribed and sworn to before me the 21st July, A. D. 1882.

H. M. ATKINSON,
Surveyor-General.

Examination of witnesses in the investigation of the Cañada de Cochiti (Antonio Lucero) grant resumed this August 17, 1882.

Present, Henry M. Atkinson, surveyor-general; David J. Miller, translator and chief clerk, and H. L. Warren, attorney for grant claimants when—

JESUS MARIA CABEZA de BACA, being first duly sworn by the surveyor-general, on his oath declares:

By Mr. WARREN:

Question. What is your name, occupation, and residence?—Answer. My name is Jesus Maria Cabeza de Baca; my occupation is farmer, and my residence is Peña Blanca in Bernalillo County, and Territory of New Mexico.

Q. What is the date of your birth?—A. I was born in February, 1808, but do not know what day of that month.

Q. Were you acquainted with Juan Antonio Cabeza de Baca in his life-time? and, if yea, state what relationship existed between you and him, if any, and whether he is living or dead; and, if dead, the date of his death.—A. Juan Antonio Cabeza de Baca was my father, and of course I was acquainted with him. He died in the year 1835, in the Navajo country, being killed by the Navajo Indians when on a campaign against them, but I do not remember in what month of that year it occurred.

Q. Did you ever see you father, Juan Antonio Cabeza de Baca write; if so, how frequently, and do you know his handwriting?—A. I have often seen him write, and know his handwriting and his signature. He was a justice of the peace, and I often saw him write in his office. [Here witness was shown a paper in the Spanish language, endorsed in English upon the back as follows: "File 95, Felipe Sandoval Roman Baca. Filed in the surveyor-general's office by Felipe Sandoval and Roman Baca, April 1, 1867. John A. Clark, Sur. Gen'l." And now marked at the commencement thereof Exhibit B, and is asked the following question:]

Q. Do you know in whose handwriting the signature Juan Antto Cabeza de Baca signed to said document, Exhibit B, is? If so, state.—A. I do know it. It is the writing of my father.

Q. In whose handwriting is the certificate and signature thereto appended to said document, Exhibit B?—A. I think the writing in the body of the certificate is in my father's handwriting, and I am sure the signature to it is his writing.

Q. What official position, if any, in the jurisdiction of Cochiti, did your father occupy?—A. He was alcalde.

Q. During what years, as you remember, was your father alcalde, and how many times?—A. I do not remember in what years he was alcalde, but he was such for various terms.

Q. When do you first remember his being such alcalde?—A. I first knew he was alcalde when I was about eight or nine years old, and he may have been before.

Q. [The witness is shown the signature of Juan Estevan Aragon subscribed to said document, Exhibit B, and also to the certificate appended to said document, and is asked the following question:] Were you acquainted with Juan Estevan Aragon; is he living; and, if not, when did he die?—A. I was. He is now dead. He died, I think, about the year 1823 or 1824. He was alcalde also.

Q. Did you ever see Juan Estevan Aragon write, and do you know his handwriting and signature?—A. I did; he was my schoolmaster, and I believe I know his writing, having often seen him write, and he was also private secretary of my father.

Q. In whose handwriting are the said signatures of said Juan Estevan Aragon signed to said document and certificate now shown you and identified as Exhibit B?—A. They are the signatures of said Aragon.

Q. What official position, if any, did said Aragon occupy for your father when you first knew of the latter being alcalde?—A. He was his secretary and clerk of his alcalde's court.

Q. In whose handwriting is the said document, Exhibit B, now shown you, commencing with the words "Es copia" down to and including the words "doy fee"?—A. I believe it is Juan Estevan Aragon.

Q. Did you know Luis Maria Cabeza de Baca; if so, is he living or dead; and if dead, when did he die?—A. I did; he was my grandfather, and he died about the year 1823, 1824, or 1825.

Q. Did you know his handwriting; did you ever see him write; and, if so, how often?—A. I did know it, having frequently seen him write. He wrote an ugly grotesque hand.

Q. In whose handwriting is the signature subscribed to said Exhibit B, now shown you?—A. I believe it is the signature of my grandfather, Luis Maria Cabeza de Baca, for that is the way he wrote.

By the SURVEYOR-GENERAL:

Q. Have you any interest in the result of this investigation?—A. I have none.

Q. Do you know anything in relation to the boundaries of the Cañada de Cochiti grant as to the localities?—A. I do not know where they are, or what.

Q. You state in your direct examination that when you were eight or nine years old your father was alcalde; I want to know how you know he was alcalde at that time.—A. I know it by the fact that that business was transacted before him by the people going there to settle their questions before him, and know that the alcaldes were elected by the people, and he was one of the alcaldes.

Q. What jurisdiction was he alcalde of?—A. Of the precinct, or as then called the jurisdiction of Peña Blanca, embracing Santo Domingo, Cochiti, and the Cañada.

Q. What was the name of that jurisdiction, as then called?—A. It was called indiscriminately the jurisdiction of Peña Blanca, of Cochiti, of Cañada and San Buenaventura, and Santo Domingo.

Q. Can you state positively that the name of Luis Maria Cabeza de Baca, which appears on Exhibit B, heretofore shown you, is his genuine signature?—A. I can say positively it is.

Q. Can you say positively that the names of Juan Antonio Cabeza de Baca, and Juan Estevan Aragon, which appear on said Exhibit B, are their genuine signatures?—A. Yes; they are their signatures.

Q. How do you know them to be such?—A. Because I have seen them write; Aragon was my schoolmaster, and I attended his school at Cochiti, whence he used to write letters to my father.

Q. Did your father and the other alcaldes keep a record of their official acts?—A. Of course they keep a record of their official acts, as all the alcaldes did, and which record they delivered to their successors.

Q. Is the alcaldes' record of that jurisdiction still in existence; and, if so, where can it be found?—A. I presume it is in existence, and in the keeping of the present alcalde, Felipe Sandoval, as the records pass to successors in office.

Redirect by Mr. WARREN:

Q. When did you last see the alcaldes' records last spoken of?—A. I cannot recollect; I had these archives in my possession as alcalde two terms, and when I turned them over, I believe, I did not see them afterwards. My successor, to whom I turned over the archives, was Jesus Maria Montoya, now deceased. It was, I now remember, in the year 1837, when Armijo was governor.

Q. Were those records kept in bound books or bundles, or in what way?—A. Only in bundles, and a catalogue or list of them was given upon the change of authority.

JESUS M. C. DE BACA.

Subscribed and sworn to before me this August 17, 1882.

H. M. ATKINSON,
Surveyor-General.

JUAN LOPEZ, being, by the surveyor-general sworn, on his oath declares:

By Mr. WARREN:

Question. What is your name, residence, and occupation?—Answer. My name is Juan Lopez; my place of residence is Peña Blanca, in the county of Bernalillo, and Territory of New Mexico, and my occupation is farmer.

Q. In what year were you born, and where?—A. In the year 1807, at Peña Blanca.

Q. How long have you lived at Peña Blanca?—A. All my life-time.

Q. Did you know Juan Antonio Cabeza de Baca? If so, did you ever see him write, and do you know his handwriting and signature?—A. I knew him, and have seen him write, and know his handwriting and his signature.

Q. In whose handwriting are the respective signatures, purporting to be those of Juan Antonio Cabeza de Baca, subscribed to the document marked Exhibit B, and to the certificate appended thereto, respectively, now shown you?—A. They are both in the handwriting of Juan Antonio Cabeza de Baca.

Q. What official position, if any, did Juan Antonio Cabeza de Baca occupy during his life, and at what periods?—A. So far as I know, the position of justice or alcalde. I cannot say in what years or how long ago he was the alcalde, but when I first knew him as such was when I was about nine or ten years of age.

Q. Did you know him on Dec. 30, 1817? If so, state what you know of his official position at that time.—A. I did, and he was then alcalde.

Q. What was the jurisdiction called of which he was alcalde?—A. The jurisdiction of Cochiti.

Q. What public acts, if any, have you seen him perform as such alcalde?—A. He gave orders and tried suits brought before him. He was elected by the people and performed his official duties at his public office, which he had at his residence as alcalde.

Q. In whose handwriting is the certificate appended to the document marked Exhibit B, commencing with the word "Ante," and ending with the words "doy fe," now shown you?—A. It is the handwriting of the said Juan Antonio Cabeza de Baca.

Q. Did you know Juan Estevan Aragon and Luis Maria Cabeza de Baca, respect-

ively? If so, do you know their handwriting, and have you seen them write?—A. I knew them both; have seen them write and know their handwriting.

Q. In whose handwriting are the respective signatures "Juan Estevan Aragon" and "Luis Maria Cabeza de Baca," subscribed to the document marked Exhibit B, now shown you?—A. The one was written by Juan Estevan Aragon and the other by Luis Maria Cabeza de Baca.

Q. Do you know in whose handwriting is the said document Exhibit B, commencing with the words "Es copia," down to and including the words "doy fee"?—A. It appears to me to be the writing of Juan Estevan Aragon.

Q. Is Juan Estevan Aragon living or dead?—A. He died so many years ago that I do not remember when.

Q. What position, if any, under Juan Antonio Cabeza de Baca did said Aragon occupy in the year 1817?—A. He was his secretary.

Q. Is Luis Maria Cabeza de Baca living or dead, and if dead, when did he die?—A. He is dead many years, but how many I cannot state now.

Q. Did you know Juan Gonzales and Sebastian Salas, or either of them?—A. I have heard them mentioned in Cochiti, and I believe I knew them both.

Q. Are they, respectively, living or dead?—A. They are both dead.

Q. Do you know the handwriting of either of them?—A. I do not.

Q. Do you know a tract of land known as the Cañada de Cochiti grant? If so, state where it is situate, and how long you have known it.—A. I do know such a tract, and have known it since I can remember. It is situated in the Cañada de Cochiti, in the County of Barnalillo and Territory of New Mexico.

Q. Who were in possession of that tract of land when you first knew it, and have continued in possession since?—A. The Luceros.

Q. Who do you mean by the Luceros—the descendants of whom?—A. I mean the Luceros the descendants of the grantee, Antonio Lucero.

Q. Do you know the boundaries of the tract known as the Cañada de Cochiti grant?—A. I do know them.

Q. What is the boundary of the said grant on the north?—A. The old pueblo of Cochiti.

Q. What is the southern boundary?—A. The Alto de las Cruces, and the lands of the Indians of the pueblo of Cochiti.

Q. What is the boundary on the east?—A. The Rio del Norte.

Q. What is the western boundary?—A. The top of the Sierra de Jemez, so called.

Q. How long have you known the boundaries you have given to be the boundaries of the said grant?—A. For a great many years, and as long as I can remember I have heard them referred to as the boundaries among the people.

Q. Among what people do you mean?—A. I mean among the old people of Peña Blanca and that vicinity.

Q. Do you know the mountain you have referred to as the Sierra de Jemez forming the western boundary, and, if so, how long have you been familiar with it?—A. I do know it, and have known it since I was large enough to commence herding stock.

Q. How long have you known that mountain to be known as the Sierra de Jemez?—A. I have known it to be called the Sierra de Jemez ever since I was a boy eight, nine, or ten years old.

Q. Do you know the present Indian pueblo of Jemez?—A. I do know it.

Q. In what direction from that pueblo is the Sierra de Jemez, of which you have spoken, and how far?—A. The sierra is to the west of the pueblo, and is about half a league distant, somewhat more or less.

Q. Going from the Sierra de Jemez eastward to the Rio del Norte, is there any high mountain or range of mountains, and, if so, what are they called or by what name are they known? [Question withdrawn and the following submitted.]

Q. Are there any mountains between the Rio del Norte and the Sierra de Jemez within the boundaries of the grant you have named? If so, by what name are they known?—A. The only one is the Sierra del Balle or Sierra Alta.

Q. Do you know of any other mountain or sierra than that you have named as the western boundary to be called or known as the Sierra de Jemez?—A. I do not.

Q. Are the Balle Mountains you have spoken of as called the Sierra del Valle, situated eastwardly or westwardly from the present pueblo of Jemez?—A. Towards the north.

Q. What is the distance from the Rio del Norte to the Sierra de Jemez within the grant?—A. Fifteen leagues, more or less.

Q. What is the distance between the north and south boundaries of the grant of the Cañada de Cochiti?—A. About three or four leagues.

Adjourned to nine o'clock to-morrow morning.

Investigation resumed at nine o'clock Friday morning, August 18, 1882.

By the SURVEYOR-GENERAL:

Q. How far back and to what year can you remember the occurrence of any event in your life?—A. To when I was about ten years old:

Q. What event occurred at that time that you remember?—A. I remember that at that time the Navajo Indians made a descent upon the people of the Cañada de Cochiti.

Q. In what year and month of the year was this raid made?—A. I cannot now remember just the year or the month of the year in which it occurred, but it occurred somewhere about the years 1817 to 1821.

Q. Where were you living then, and what did you do?—A. I was living at Peña Blanca, and engaged in farming affairs.

Q. What were you doing in 1817?—A. I was at school.

Q. How often did you see Juan Antonio Cabeza de Baca at that time?—A. As he lived then at Peña Blanca I saw him continually.

Q. At what times and how long was he alcalde?—A. I cannot say at what times or in what years he was alcalde, but he was repeatedly in the office of alcalde.

Q. Then you do not know positively that he was alcalde in 1817?—A. He was alcalde, then the first year I knew him, and when I was at school at his house in that year.

Q. Did you see him perform any official act during that year; if so, what?—A. I did, such as official orders of alcalde, which were executed by the officials.

Q. What orders? State some specific one.—A. Orders in matters of the people pending before him. I remember no particular instance.

Q. How do you know these were official orders given as alcalde?—A. Because they were issued by him and were obeyed.

Q. Have you had any conversation with any one as to what you would testify to in this case?—A. I have not.

Q. You have testified that Cabeza de Baca was alcalde on December 30, 1817—I want to know how you remember that particular date so well?—A. From the papers in my possession; I having some showing that he was alcalde at that time.

Q. What is the nature of those papers?—A. Land documents, papers relating to land purchases in Peña Blanca, being deeds of conveyance, and so forth, authenticated before said Juan Antonio Cabeza de Baca as alcalde.

Q. At what dates were they authenticated? Was any of them authenticated in 1817?—A. Yes; as he was then alcalde.

Q. What document or documents were authenticated by him in 1817?—A. I cannot say what particular ones, but he authenticated documents in that year.

Q. Did you ever read any of the documents?—A. Yes; I read some of them.

Q. Describe any one of those documents by date, and when issued, and to whom.—A. I cannot remember the particulars of any one of them.

Q. Then your knowledge of Cabeza de Baca being alcalde in 1817 was derived from seeing documents authenticated by him that year?—A. Yes, and also from the fact that he was elected by the people.

Q. Were you present at the election?—A. I was there in the community and saw the primary meeting, etc., but was too young to participate, the meeting being at the house of Cabeza de Baca when I was there at school.

Q. When you first knew Cabeza de Baca as alcalde what year had he been elected as such?—A. In the year 1817.

Q. Is it not a fact that the election occurred in 1818?—A. No.

Q. In what time of the year was the election?—A. I do not remember.

Q. Where and where did you first see said Cabeza de Baca write?—A. At his home in the year 1817.

Q. What was he writing then?—A. I do not know what, but he was writing.

Q. How often have you seen him write?—A. A great many times.

Q. About when was the last time you ever saw him write?—A. I cannot remember when.

Q. At the time you saw him write can you state what document he was writing at any one time?—A. I cannot.

Q. How did you come to see him writing at any time?—A. By seeing him writing on casual occasions as when at the school-house.

Q. Did he have the school at his residence?—A. He did.

Q. How often did you ever see Luis Maria Cabeza de Baca write, and when and where?—A. I have not seen him write, but I have seen his handwriting.

Q. If you never saw him write how do you know it was his handwriting?—A. never saw him write, but I have seen his signature.

Q. That is, you have seen his name, but never having seen him write you do not intend to swear that what purports to be his signature on Exhibit B is his bona fide signature, do you?—A. Never having seen him write I cannot swear that the name is his own signature.

Q. Have you ever been at the old pueblo of Cochiti?—A. I have.

Q. How far is it from the Rio Grande and in what direction?—A. About a league, more or less, towards the north.

Q. What year did you commence to herd stock?—A. In about the year 1817.

Q. How long did you continue to herd?—A. I was not a regular herder, but went sometimes out on that business.

Q. How much of the time in 1817 were you herding?—A. Not more than a month, and that to assist at the lambing.

Q. Where were you lambing at that time?—A. I do not remember where in that year, 1817, as we lambed at different places in different years.

Q. How did you acquire a knowledge of the location of the Sierra de Jemez?—A. By hearing it so called by the old settlers as I passed through the neighborhood and the pueblo of Jemez, which is adjacent.

Q. Is it not a fact that the mountains immediately near to the Jemez pueblo, both on the northeast, north, and northwest of said pueblo, are called the Jemez Mountain and have been so known for many years?—A. No; only the one I described as to the west of the pueblo of Jemez—the others are the Valle Mountain and some wooded hills to the north.

Q. How do you know that the Luceros had a grant at the Cañada de Cochiti?—A. Because I have always heard so, and have always seen settlers at the place.

(Mr. Amado Chaves here appeared and stated that as part owner of the Cañon de San Diego grant he desired to enter an appearance as a party interested, and waived notice so far as the taking of testimony of the witnesses now present, are concerned, and requested that C. H. Gildersleeve, his attorney, be notified of the time and place of taking further evidence.)

Q. Then all you know in relation to a grant at the Cañada de Cochiti and to the location of the Sierra de Jemez is from what you have been told by others, the latter by general reputation, is it not?—A. Yes.

Q. Have you any interest in this grant?—A. I have not.

Redirect by Mr. WARREN :

Q. From what fact or circumstance is it that you are able to remember the official position and acts of Juan Antonio Cabeza de Baca in the year 1817?—A. Because I happen to retain the fact in my memory, and if I did not know what I have stated to be true I would not have so declared.

Q. In what year did you first go to school and where?—A. In the year 1817, and at the house of Juan Antonio Cabeza de Baca.

Q. You have stated that the only way you know the location of the Sierra de Jemez, and that the Luceros had a grant called the Cañada de Cochiti is from what others have told you. Please state when and by whom you were first so told, whether such facts are matters of general reputation among the people of that vicinity, and how long they have been so.—A. Yes; from what others have told me from about the year 1817 down to the present time, and these are matters of general repute among the people of that section and have always been so.

Q. From what circumstance did you testify on your direct examination that you knew the handwriting of Luis Maria Cabeza de Baca?—A. I know his handwriting from having often seen what I was informed and believe was his, and from the writing shown me here in this examination and its similarity to that I have seen I am satisfied it is his writing as I declared I believed it to be.

JUAN LOPEZ.

Subscribed and sworn to before me this 18th day of August, 1882.

HENRY M. ATKINSON,
Surveyor-General.

SEPTEMBER 22, 1882.

MARIANO SALAS recalled.

By E. A. FISKE, of Fiske & Warren, counsel for grant owners:

Question. In your former testimony the following question to you and answer by you appear: "Q. In what direction is the Jemez Mountains from the present pueblo de Jemez?—A. It is to the east of the pueblo of Jemez, this side." Is that question and answer correct, and have you any explanation to make in reference to it?—Answer. No; the question is not right, as I understood it. It was, what direction was it from the Sierra de Jemez to the pueblo de Jemez. The pueblo is to the east of the Sierra, and on this side of it.

Q. Is the way in which you answer the question now the way in which you answered it in your former testimony?—A. I answered then as I answer now, that the pueblo is to the east, or, in other words, on the hither side of the Sierra.

By the SURVEYOR-GENERAL:

Q. Did you not in your former testimony state positively that the Sierra de Jemez, referred to as the west boundary of the grant in question, was east or northeast of the Indian pueblo of Jemez, and on this side of said pueblo?—A. I stated in giving

the north, southeast, and west boundaries that the west boundary was the Sierra de Jemez. I did not, but I stated that the Pueblo of Jemez was to the east of the Sierra de Jemez, and that the Sierra de Jemez was to the west of the pueblo; that was my answer.

Q. In what direction are the Valles Mountain from the Jemez Mountain, and how far are they apart?—A. It is to the north, and it is about six or seven leagues between them, the Jemez River running between them.

his
MARIANO X SALAS.
mark.

Sworn to and subscribed before me this September 22, 1882.

H. M. ATKINSON,
Surveyor-General.

UNITED STATES LAND OFFICE,
Santa Fé, New Mexico, Nov. 25th, 1882.

Hon. HENRY M. ATKINSON,
Surveyor-General for New Mex. :

SIR: Some three months or so ago I discovered that an attempt was being made, by one Whitney, through his attorneys, Messrs. Fiske & Warren, to have a grant by the name of "Cañada de Cochiti" approved. I do not know whether the grant is genuine or not, but I do know that they are trying to perpetrate a fraud upon the Government as well as upon many people of this Territory by trying to prove that one—the boundaries of said grant—La Sierra de Jemez, the west boundary—is far beyond from where it really is. If the grant is approved, as they claim it, the Government will be swindled out of an immense number of acres of land, and as a number of other grants would be taken in the survey of this grant, many people would lose their homes and suffer a great deal.

The "Cañada de Cochiti" grant is a very old grant, much older than any of the other grants that it would take in, if approved and surveyed, as claimed by said Whitney, thereby destroying the others by virtue of priority.

This grant is situated on the west side of the Rio Grande and east of the Jemez Mountains, the west boundary of the grant. Now, what said Whitney is attempting to prove is that the west side or portion of the Jemez Mountain is the boundary of the grant instead of the eastside. The Jemez Mountain is partially divided at some places by long cañons, thus leaving the east portion of said mountains a long distance from the west portion. When said Whitney (J. G.) examined said grant he informed me that the people living on the same showed him the location of the west boundary of said grant, which was a portion of a mountain west of the grant, but a long distance from the west portion of the Jemez Mountains (the boundary he claims now).

When I discovered the attempt that was being made I requested you to allow me time in which to prove to you, by competent witnesses that the statement I have made above is correct. Unfortunately I was taken sick at that time, and for the last three months have been confined to the hospital, severely ill, and even to-day I am unable to leave my room. For this reason alone have I failed to present my witnesses to you for the purpose of having them examined. I do not wish to delay action by your office in this case; I simply wish to request that this letter may be filed in the case, to show why I failed to present the evidence I promised, and as a request that if ever I get well I may be permitted to furnish said evidence hereafter.

I am, sir, very respectfully, your ob't servant,

AMADO CHAVES,
Land Commissioner for the Territory of New Mexico.

FLORENCIO SANDOVAL, being duly sworn, on his oath declares :

By C. H. GILDERSLEEVE, for contestants :

Question. What is your name, age, occupation, and place of residence?—Answer. My name is Florencio Sandoval; my age is forty-three; am a stock-herder and merchant, and live in Algodones, in Bernalillo County, Territory of New Mexico.

Q. Do you know the town of Cochiti, and, if so, how long have you known it?—A. I know it, and have known it for twenty-five years.

Q. Are you familiar with the mountains and surrounding country at Cochiti?—A. Yes; I was born at San Isidro, and am familiar with the country about Cochiti.

Q. With reference to the town of Cochiti, do you know where the Jemez Mountains are?—A. Yes.

Q. In what direction are these mountains from the town of Cochiti?—A. They are west of Cochiti.

Q. How far west of Cochiti to where the Jemez Mountains commence?—A. About two miles west of Cochiti.

(Question and answer objected to by Mr. Fiske, att'y for grant claimants, on the grounds that the only competent testimony is as to where the mountains are, and witness should not give his opinion, as an expert, as to the commencement of the mountain.)

Q. Do you know of your own knowledge where the Jemez Mountains are [objected to as leading], that have always been recognized by the old inhabitants of Cochiti as the Jemez Mountains, with reference to the town of Cochiti?

(Objected to as leading. Question corrected and objection withdrawn.)

A. Yes; I know the Jemez Mountains, and have always known them, and as they have always been known by the old inhabitants of San Isidro and Cañon de Jemez.

Q. State what distance the Jemez Mountains are west of Cochiti; I mean the nearest point of the Jemez Mountains.—A. All the mountains there are called the Jemez Mountains. They have local names. The first one is called Poleo, which is ten miles from Cochiti to its summit to the west, and the highest point of it is ten miles west of Cochiti, from which the waters flow to the east and west. The nearest point of the Jemez Mountains is about ten miles, more or less; I mean to the top of the mountains.

Q. Is the Poleo Mountain you speak of a part of the Jemez Mountains?—A. Yes; it is a part of what I understand to be the Jemez Mountains.

Q. State whether or not the Poleo Mountain is the highest part of the Jemez Mountains contiguous to Cochiti.—A. Yes; it is the highest that is near Cochiti.

Cross-examination by Mr. FISKE:

Q. Do you know where the main range of the Sierra de Jemez is west of the Rio Grande and west of Cochiti Pueblo?—A. Yes, sir; I know.

Q. Between the main range of the Sierra de Jemez and Cochiti Pueblo are there not various valleys, hills, and small ranges of mountains?—A. There are small hills and small valleys, but no mountains.

FLORENCIO SANDOVAL.

Subscribed and sworn before me this 7th day of February, 1883.

HENRY M. ATKINSON,
Surveyor-General.

The further cross-examination of Florencio Sandoval is postponed until March 6, 1883, to which time this cause is continued.

MARCH 6TH, 1883.

Met pursuant to adjournment.

Present, H. M. Atkinson, sur. gen'l; D. J. Miller, translator; Mr. Whitney claimant.

No witness appearing, cause continued.

OPINION.

Before the United States surveyor-general for the Territory of New Mexico.

J. G. WHITNEY, FOR HIMSELF AND THE HEIRS AND LEGAL REPRESENTATIVES OF Antonio Lucero, deceased,
vs.
THE UNITED STATES.

This case is presented before me under the treaty of Guadalupe Hidalgo and the 8th section of the act of Congress approved July 22nd, 1854, establishing this office.

The muniments of title presented as coming from the possession of claimants consist of a torn document, which purports to be the petition, grant, and act of possession given in 1728 to Antonio Lucero to the Cañada de Cochiti tract, on the west side of the Rio Grande, in Bernalillo County, New Mexico, together with a certified copy of such original muniments of title, made and certified to in 1817, by Juan Anto. Cabeza de Baca, chief alcalde of Cochiti at that time, and attested by four witnesses, with the apparent intention of perpetuating the form and wording of the original documents of title.

There is also accompanying what purports to be a petition or complaint to the alcalde, by the heirs of Antonio Lucero, dated in 1785, setting forth that their lands, which they had inherited and which had descended to them from their grandfather, Antonio Lucero, were claimed for the use of cavalry animals, and the decision of such alcalde in their favor, regarding the right to the property in question.

The petition of present claimants was filed in this office July 22nd, 1882, with the

documents referred to, but as the petition did not fully conform to the requirements of the rules and regulations of the honorable Secretary of the Interior, they were required to prepare an amended petition, which was filed August 7, 1882.

The petition of claimants alleges that the grant was made to Antonio Lucero August 2, 1724, by Bustamante, the civil and military governor of New Mexico, which at that time was an ultramarine province of Spain, that juridical possession was given to the grantee August 6, 1728, and Lucero thereby acquired a right to the lands claimed.

In the testimony taken Felipe Sandoval, aged fifty-four years, states that he has known the grant since 1866 or 1867, when he brought the grant papers to the surveyor-general's office from the possession of the people on the grant, in Bernalillo County, Territory of New Mexico, as a commissioner appointed for that purpose; that the grant papers and copy thereof had been in the possession of the people on the grant since 1849, to his knowledge, and by common repute they had been in their possession since the concession was made, which was over a century previous. Witness identified title papers as those filed by him in 1866 or 1867, but is not certain that the copy certified to by Juan Anto. Cabeza de Baca was among them, but thinks it was. He knew of and saw the copy in 1849. Witness gives the boundaries the same as those in the alleged title papers.

Mariano Salas, born in 1808, at Cañada di Cochiti, on the land in question, lived there 28 years; his father and grandfather, who were heirs to the grant, lived there; also other heirs lived there. Witness testified that Juan Antonio C. de Baca was the first alcalde of that jurisdiction which he remembers; that he (the alcalde) died in 1821 and was alcalde at that time; that he thinks Estaban Aragon was alcalde there in 1817 and 1818, but afterwards states that Juan Antonio C. de Baca was alcalde also from his earliest recollection until his (Baca's) death. There was a town there in 1821, and the same town is there yet; that the grant was inhabited by the heirs of the grantee. Witness gives the boundaries of the tract the same as those named in the petition, except the Rito de los Frijoles, which he named as the north boundary. His information was based on what his father and others living on the tract had told him. The grant was about seven leagues from east to west and about six leagues from north to south. Witness testified that the Jemez Mountain was east of the Pueblo of Jemez, between it and the Rio Grande, but he was afterwards recalled and stated that he did not understand the question, that he meant to say that the Jemez Pueblo was east of the Sierra de Jemez, although he previously testified that there was no other high mountain between the Rio Grande and what he referred to as the Jemez Mountain. Witness admits having an interest in the grant.

Jesus Maria Cabeza de Baco testifies as follows: Was born in 1808; am the son of Juan Antonio C. de Baca, who was killed by Navajo Indians in 1835. He had often seen his father write. Knows his signature; had often seen him write in his office while he was justice of the peace. Witness identifies the signature of Juan Antonio C. de Baca to Exhibit B, as that of his father, and thinks the body of the certificate thereto was written by him; first knew he was alcalde when he (witness) was 8 or 9 years old, and held the position at various times. Witness also states: Was familiar with the writing and signature of Juan Estaban Aragon, and identifies the same as subscribed to Exhibit B as his genuine signature. The signature of Luis Maria Cabeza de Baca to Exhibit B is also identified by witness as genuine; also that the alcalde's records of that period, he presumes, are still in existence and in the present possession of Felipe Sandoval; that he last saw the records in 1837 when witness turned them over to Jesus Maria Montoya, his successor in office of alcalde.

Juan Lopez, the next witness, testifies that he was born at Pena Blanca in 1807, and lived there; knew Juan Antonio Cabeza de Baca; had seen him write; knew his signature; that the signatures of Baca on Exhibit B are his genuine signatures; that Baca was alcalde Dec. 30, 1817, of the jurisdiction of Cochiti. The certificate to Exhibit B is also his handwriting. Witness also identifies as genuine the signature of Juan Estaban Aragon, and believes that of Luis Maria C. de Baca to Exhibit B is also genuine. Aragon was secretary to Juan Antonio C. de Baca. Has known the Cañada de Cochiti grant since he can remember; it was in the possession of the Luceros, descendants of Antonio Lucero, grantee; knows the boundaries and gives the same boundary calls named in the alleged grant papers; that the Sierra de Jemez is west of the Pueblo of Jemez and about 15 leagues, more or less, west of the Rio Grande. Witness had documents in his possession authenticated before Juan Antonio C. de Baca, as alcalde, Dec. 30, 1817, and in that way knew he was alcalde at that time, also was there when he was elected alcalde that year. The grant he knew existed, from general repute among the people of that section, that he first knew of such general repute when he was about ten years old.

There is some variance in the testimony of the witnesses, notably between that of Salas and Baca, as to the date of the death of Juan Antonio C. de Baca; the former fixing the date of his death in 1821 and the latter in 1835; but that is immaterial except in its application to the credibility of the statements of the witnesses in other material portions of their evidence, and while an intentional misstatement of the oc-

currences so many years ago is not attributed to them, yet it is evidence of imperfect recollection of the incidents which transpired at that remote period. The positive statement of the witness, Lopez, that Baca was alcalde Dec. 30, 1817, and his explanation as to how he knew the fact to be true, should have been strengthened and corroborated by the production of such authenticated documents, if in his possession as he states, and if not available, the explanation for their non-production should have been given. The same may be said of the alcalde's records, of that jurisdiction covering the periods of 1785 and 1817, which should be produced, or their non-production accounted for.

The document purporting to be from the record of proceedings had before the alcalde, Antonio de Armenta, in 1785, is unauthenticated in any manner, and no attempt was made to prove the signatures, or to show its authenticity; it must, therefore, be rejected as evidence in the case; although were it shown to be a part of, or a copy of the record of proceedings had before the alcalde of that jurisdiction, as it purports, it would be a material paper in the case, as tending to show the occupation and possession of the tract by the descendants of the grantee, Lucero, at a period long anterior to that which it would be possible to show by oral evidence, based on the personal knowledge of the witnesses as to the facts and circumstances.

What is called by the claimants the original documents of title in the case, is badly mutilated from some cause, and the signatures of the officials, if it contained such, are torn off. The document is on unsealed paper, contains the reputed signature of Antonio Lucero to the petition, which is apparently in the same handwriting, and comes from the possession of the claimants, as do all the papers in the case.

There is no record, evidence, or reference to such a grant in the old Spanish or Mexican archives on file in this office, and the title of claimants rests solely upon this copy of the alleged original (Exhibit B) and the oral proofs offered, of long-continued possession.

The first question to be considered is, whether the evidence is sufficient, or of such a nature, that the Government, under its treaty obligations, is in duty bound to acknowledge the claim as a just one; and if it was a title that the Government of Mexico was under obligations to recognize, then in obedience to the letter and spirit of our treaty stipulations, it would be incumbent upon the United States to approve the claim and protect the claimants in their rights to the same extent that they would have been entitled prior to the change of sovereignty.

I assume that it is the policy of this Government to deal fairly by all just claimants in the protection of their private rights, and concede them what they would have been entitled to under the Mexican Government, without the interposition of mere technicalities; yet, where there is no record evidence of a grant in the archives, and the case rests solely, as this does, upon an alleged copy, certified by an alcalde and parol proofs of possession for a considerable period, and in view of the facilities that claimants possess of producing parol testimony of almost any character, if so disposed, and which in many instances is known to be utterly unreliable, as shown by experience in the adjudication of this class of claims, it is, under the circumstances, an imperative duty to require the clearest and most satisfactory proofs of the validity of a title or claim presented in this form.

It is a matter of history that the old Spanish and Mexican archives of this territory were loosely kept after the American occupation of the country, and many valuable documents and record books of these titles lost, destroyed, and sold as waste paper under the eyes of a Government official, whose sacred duty it was to preserve and protect them. The fact that these records were so destroyed has opened the door to fraud and invited imposition upon the Government through the means of fraudulent title papers, and necessitating the adoption of some rule as to evidence of title required that may operate harshly, and at times unjustly, toward honest claimants. There is not, however, any general rule that can be laid down to apply to all these cases without operating severely in some instances, and while it is the duty of the political department of the Government to adjust these titles in a spirit of equity and fairness under the treaty obligations, yet the Government has also rights and equities in the premises that must be considered by its officers, which fact should not be lost sight of in the adjudication of such claims.

A certified copy of an ancient original document of title, authenticated by an officer authorized to make the same, for the purpose of perpetuating the instrument, or by the proper official custodian of such title papers where the original has been lost or mutilated, would be receivable in evidence, and would be entitled to almost the same weight as the original. In this instance the governor or secretary of the province was the proper custodian of all grant records and was the proper official to have authenticated the copy. Royal clerks (*escribanos*) were evidently empowered to authenticate documents of this character; see Lib. 4, Tit. 8, Law 1, 2d White's Recop., p. 57, wherein it is declared: "That all proceedings, judicial and extra judicial, public writings, testaments, notifications, and *others* which are to be made before clerks (*escribanos*), and attested, legalized, and authenticated by them, shall pass through

and be delivered and acted upon by public, royal escribanos, deriving their title and authority from the kings, our predecessors, or ourselves, through the council of the Indies. * * * And to give more effect to the foregoing, we declare that all instruments, writings, judicial and extra judicial records, made out or acted upon, and all attestations and testimonies given in violation of this our law, shall be of no effect or value, nor shall be permitted to be offered in court or out of court." * * *

I am unable to find where an alcade was empowered to authenticate any document for purposes of perpetuating the same, and am impressed with the belief that such authority did not pertain to that office. Such being the case the copy would have no more effect as evidence of title than a copy certified by any third party, as the authentication or custody of such ancient documents was not a part of the alcade's official duties, and in that view I see no particular reason for requiring the production or accounting for the non-production of the alcade's record of that jurisdiction for the purpose of showing that Baca was an alcade at the date of his certificate. Had he been the officer designated and empowered to give the juridical possession, and, as was often the case, directed by the granting authority to furnish the grantee with the proper testimonio, I apprehend that this certificate would have carried the weight and force of an authorized official act; but such is not the case in this instance. I question the propriety of the admission of this document in evidence for any purpose and particularly to show title; yet were it duly authenticated as a copy of some record or by the lawful public custodian of the same, taken in connection with the oral evidence of occupation and possession as testified to by the several witnesses, and on account of the ancient character of the alleged grant and copy, I would admit it for what it might be worth as corroborative of the oral testimony relative to the extent of the tract claimed, and whatever presumption that might arise of a grant from long and continued possession of those claiming under the alleged grantees.

"Though the ancient record of a deed improperly acknowledged is not in itself evidence of the execution of the deed, yet such record, in connection with long and undisputed possession consistent with the deed, and other circumstances which tend, as a matter of fact, to show the probable execution and loss of such a deed, is admissible as evidence to go to the jury upon the question whether they will presume the existence and loss of the deed." (32 Vt., 183.)

In that case it was a deed recorded in the authorized public records, but this copy is from the possession of claimants, authenticated not by any public officer with authority, and may as well have been certified to by any individual or private citizen. I know of no rule that would warrant the reception of this paper in evidence.

The next question to consider is, whether, under the circumstances and the evidence presented, a grant can be presumed to have been made to Antonio Lucero.

"To maintain a title by secondary evidence," say the court in *U. S. v. Castro et al.*, (24 How., p. 350), "the claimant must show that the grant was obtained and made in the manner the law required at some former time, and that it was recorded in the proper public office, to which it may be added that such was undoubtedly the Mexican law."

We repeat again these rules of evidence, because it would seem from the case before us that the board of land commissioners and the circuit court regard *written* documentary evidence produced by a claimant from a private receptacle and proved by oral testimony, as of equal authenticity and entitled to equal respect with the public and recorded documents found in the public archives; but such a rule of evidence is altogether inadmissible. It would make the title to lands depend upon oral testimony and consequently render them insecure and unstable, and expose the public to constant imposition and fraud. Independently, therefore, of the strong presumptions against the authenticity of the paper produced as a grant, it cannot upon principles of law be maintained even if the testimony produced by claimant was worthy of belief." (*U. S. v. Castro et al.*, 24 Howard, 346.)

Again in the case of the United States *v. Polack et al.* (1st Hoffman Land cases, 284) the court say: "Where the archives contain no evidence or trace of the existence of a grant, the court will demand the fullest and most satisfactory proofs of possession and occupation during the existence of the former government under a notorious and undisputed claim of title, and clear and indubitable evidence of the genuineness of the grant produced."

In the above case no grant was produced, but an alleged copy recorded in the city recorder's office of San Francisco, and the evidence of the governor that he made the grant was taken, also others who swore to the grant having been made, also to the copy being accurate; possession and occupation were also shown. The court say further:

"The best, if not the only tests of the genuineness of an alleged grant are to be found in the record evidence contained in the archives, and in the fact that the land has been occupied under a notorious claim of title recognized by the former government. Under the decision of the Supreme Court in the case of *Frémont* the latter of these tests cannot in general be applied, for the non-occupation can usually be excused or accounted for by parol proofs."

These decisions likely represent the early adverse sentiment of the courts to Mexican grants of comparative recent dates, and where a brief occupation only was shown, as the decisions evince a greater liberality in dealing with the questions that arise where long occupation is shown under the old Spanish grants, and their adjudication is based more upon the equities of the claims under the treaty stipulations and the rigorous rules of law governing the admission of evidence in such cases have been somewhat relaxed.

"The non-production of the grant does not necessarily affect the right of the claimant to confirmation where loss of the grant is proven and long and notorious occupation of the land is shown to have existed." (U. S. v. Sutter, 21 How., 170; U. S. v. Castro, 24 How., 346; 1st Hoffman L. Cas., 125; *ibid.*, 284; U. S. v. Estudillo, *ibid.*, 204.) An occupation so long continued (as 20 years) and so notorious, with a claim of ownership so universally recognized, might of itself be deemed sufficient evidence of ownership. (1st Hoffman L. Cas., p. 125.)

"Although certain rules upon the subject of the presumption of a grant from possession and lapse of time, have been established, yet the question will still depend in some degree on the particular circumstances of the case." (Herndon v. Casino, 7th Texas, 322; Paschal v. Perez, *ibid.*, 348.) "Where the defendant and his ancestor possessed and enjoyed a tract of land under a claim of title from 1800 to 1836, and the case was submitted to the judge without a jury, who gave judgment for the defendant, it was held that in such a case a jury might well have presumed an ancient grant (7th Texas, 338)." (Lewis v. San Antonio, *ibid.*, 228; Paschal v. Perez, *ibid.*, 348; Edwards v. James, *Id.*, 372; Robertson v. Teal, 9th Texas, 344; Ryan v. Jackson, 11 *Id.*, 391; White v. Halliday, *Id.*, 606; McGehee v. Dwyer, 22d *Id.*, 435; Walker v. Hanks, 27 *Id.* 535; Paschal v. Dangerfield, 37, *Id.*, 273; Turner v. Rogers, 38 *Id.*, 582.)

"A direct grant from the crown, of lands in a royal haven, may be presumed on an uninterrupted possession of 60 years (2 Aust., 614; 1 Dow Bar. Ca., 322, 323)."

In presuming a grant to have been made from oral evidence of long occupation and possession I realize that it is by no means a satisfactory basis of founding such presumption, as it is no difficult matter to suborn witnesses to prove such occupation, especially those ignorant of or regardless of the sanctity of an oath. It is, to say the least, a very unsatisfactory method, and imposes upon the adjudicating authority a responsibility greater than most courts care to assume, particularly where the adjudgment of title to large tracts of land is involved.

There the parol proofs of long possession are strong, the character of the witnesses beyond suspicion, and their evidence is corroborated by extraneous facts and circumstances, such as would show a clear equity or claim which the Governments of Spain and Mexico would undoubtedly have recognized, it would be the duty of this Government to confirm the claim. Such I conceive to be the character of the claim in this instance; and while I have determined to presume a grant as having been made upon the evidence offered I do so with some misgivings as to the propriety of such presumption, especially where the claimants might obtain documentary evidence of their alleged grant from the archives of Spain or Mexico, without relying upon proofs much less satisfactory. But having presumed a grant in this instance its nature and extent remain to be considered.

The petitioners claim an area covering something like 500 square miles of territory, and extending from the Rio Grande on the east to the top of what is now specifically known as the Jemez Mountain, northwest of the present pueblo of Jemez, or about 40 miles east and west and from 12 to 15 miles in width. The town which is shown by the testimony to be located in the Cañada de Cochiti, from which it takes its name; lies on the east side of what is now known as the Valles Mountains; these mountains intervene between the settlement of the grantees and what is designated by the witnesses as the Jemez Mountain. It is claimed, but does not appear in evidence, that in years past, and at the time when this grant is alleged to have been made all the mountains in that vicinity, including what is now known as the Valles Mountains, were called the Jemez Mountains, there being a number of spurs and connecting ranges, the Jemez River having its source in these mountains and running southward through them. On the east of the river is what is now called the Valles Mountains, which is quite a high range, and on the west of it, some 6 to 10 miles distant, with broken mesas or table lands intervening, is the Jemez range, now so called.

At the period of the alleged grant the laws authorizing the alienation of the royal domain by grant and composition were among those enacted by the council of the Indies, and are found in Book 3, Tit. 3, Laws 2, 4, and 5; Book 4, Tit. 12, Laws 1 to 21, inclusive; Book 4, Tit. 13, Laws 1; Book 4, Tit. 17, Laws 5 and 8, Recopilacion de Indies (see 2 White's Recop., vol. 2, pp. 38 to 56, inclusive), which are included in the compilation by the commission appointed in 1670, and approved by royal decree of May 18, 1680, under the name and title of Recopilacion de Indias, which embrace the laws in force relative to the disposition of lands in the Spanish American colonies. This work was again revised about the year 1775, in order to embrace intervening orders, decrees, etc., relative to the disposition of lands in the ultra-marine provinces of the Spanish kingdom.

The Recopilacion de Indias is a sort of digest of the royal orders, etc., issued from time to time for the government of the American colonies and to regulate the political, military, and fiscal administration of the Spanish possessions, or rather to supply such particular laws specially applicable to the colonies, which were exceptions to the general and common law of Spain, also in force and embraced in the Nueva Recopilacion which appeared in 1567 and which was superceded by the Novisimo Recopilacion published in 1805.

Under the ancient laws of Spain the crown claimed full dominion of a conquered kingdom, and the lands of such kingdom (among them New Spain, which embraced this Territory) were divided into four classes.

1st. Those granted to Pueblos for their support, called deproprias.

2nd. Those granted by the king to persons for service rendered in conquering the new kingdom, as rewards.

3d. Those sold to individuals for the purpose of supplying the pecuniary necessities of the crown, the 2nd and 3d being called *dominio particular*.

4th. Common vacant and royal lands, or *valdios* and *realengos*. These common vacant and royal lands were not granted in fee, but merely the usufruct was ceded for use and occupation, and the quantity was limited to the actual necessities of the grantee, what he was able to use and occupy for pasturing and watering his herds, with the right to cut wood for his use. Nothing was paid for this concession and the grantees were merely tenants at will. (See Law 3, Tit. 8, Book 8, del ordenamiento; Law 10, Tit. 15, Book 2, Recopilacion; Law 2, Tit. 1, Book 3, del ordenamiento; Law 1, Tit. 5, Book 7, Recopilacion; Law 1, Tit. 5, Book 7, Recopilacion.)

The petition of claimants alleges that the grant was made in 1728, and the character and extent of the concession will be estimated under the laws in force at that time, inasmuch as the possession and occupation of the tract is attempted to be shown from that period by oral evidence based on general repute as to time of commencement of the grantee's occupation prior to a time within the personal memory of the witnesses. At that period no large tracts were alienated in fee, and it is not probable that such a large area as that claimed by the petitioners was so granted. It was a custom in those days to give the applicant a usufruct of considerable tracts out of the royal domain for pastoral purposes, and small tracts for cultivation and pasture of small herds were granted in fee under Law 1, Tit. 12, Book 4, and Law 5, Tit. 17, Book 4, 2nd White's Recop., pp. 48 and 56. The latter law, which is the more recent of the two, related to royal lands particularly, for which no consideration was paid, and it is therein declared "that pastures, mountains, and waters shall be common in the Indies, to all the inhabitants thereof, present and to come." Law 5, Tit. 3, Book 3, p. 40, 2 White's Recop. authorized grants as rewards, favors, and compensation without apparent limit, but the language of the subsequent law would necessarily prohibit the granting in fee of large tracts of pasture land, and it is my opinion that no such a grant in fee to so large a tract of pasture and wood land can be presumed as having been made at that time in violation of an express statute prohibiting the same at least by implication.

In the case of *McMullen v. Hodge*, reported in 5 Texas, p. 62, the court say: "We may, however, here be permitted to remark, that the concession of a large extent of land for the purposes of pasturage and the raising of cattle was unknown to the Spanish law." "Permission to occupy, or tenancy at will, terminated by the overthrow of the Spanish monarchy, if not sooner."—*Ibid.* "It may well be doubted whether large grants of public lands were ever authorized in any case by the laws of Spain (5 Texas, p. 86)." "The concession of land for pasture of cattle constitutes no more than the usufruct of it (2 White's Recop., 287)."

In the case of the *United States v. Teshmaker, et al.*, 22 How., 392, the court say: "Indeed according to the laws of the Indies, the pastures, mountains, and waters in the provinces were made common to all the inhabitants, with liberty to establish their corrals and herdsmen's huts thereon and freely to enjoy the use thereof; and a penalty of 5,000 ounces of gold was imposed on every person who should interrupt this common right."

If a grant is presumed in this case the nature and extent of the same must necessarily be governed by the laws in force at the period at which it is claimed and presumed the concession was made. The fact that the Cañon de San Diego grants, made in 1788 and 1798; Ramon Vigil grant, in 1742; Nerio Antonio Montoya grant, made in 1768, and Los Frijoles grant made in 1780, all of them, in whole or in part, carved out of the tract claimed in the case at bar, and covering the major part of it, is evidence that the succeeding Spanish officials did not recognize the existence of a grant in fee, governing that extensive territory.

Accepting the evidence of a possession so ancient, and existing from a period of time whereof the memory of man runneth not to the contrary, coupled with and strengthened by a prescriptive right, that the Spanish laws and authorities appear to have recognized in some instances (see article 4 Royal Regulation of October 15, 1754, also law 1, Tit. 17, Book 10; 2 White, 155) of very long occupation and possession, I am disposed to approve this claim to the extent of the lands actually occupied and re-

duced to personal uninterrupted use and possession by Antonio Lucero, his heirs and assigns, for the period claimed without conflict with other claimants and within the extent authorized to be granted in fee under law 1, Tit. 12, Book 4, Recop. de Indies, as that appears to be the only law under which it is reasonable to presume the grant was made, if the presumed concession under the claim as presented carries the fee, not merely constructive possession is here meant, for of such as they did not actually occupy and use, there could be no prescriptive right acquired, nor could they under the Spanish laws be presumed to have held more than the usufruct of such; which usufruct determined and ceased when any portion of that which Lucero held by tenancy at will, was granted to any one else, either in fee or the mere use thereof granted for any purpose.

To rely entirely upon parol proofs as to the extent of the tract actually occupied and used would render its area quite uncertain and difficult to determine. Laws 1 and 15, Tit. 12, and Law 5, Tit. 17 of Book 4, Recopilacion de Indies were in force at the period named, the latter qualifying the former; and in addition to what was authorized to be granted in fee by Law 1, Tit. 12, Law 15, Tit. 12, authorized the concession of the usufruct of a greater area for pastoral purposes. If a grant is presumed under Law 15, Tit. 12, and Law 5, Tit. 17, it would amount to nothing more than the presumption of a tendency at the will of the sovereign, which carried no right to a fee in the land, thereby defeating the equities of the claimant, as the usufruct has long since been determined, certainly upon the acquisition of this country by the United States, if not upon the change of sovereignty from Spain to Mexico, and as such a claim of tenancy at will only, it would not fall within the class that this Government would be under obligation to recognize as valid. It was the evident intention of the Spanish Government, under Law 1, Tit. 12, Book 4, above referred to, to concede the fee to small areas of land for cultivation and pasture, a portion of which, although tillable land, was doubtless used for pasture by the individual receiving the allotment or grant. The mountains were valuable for grazing purposes and wood lands, also for the mineral; hence only the usufruct thereof was conceded for a term of years, during the life of the grantee, or at the pleasure of the sovereign, and the conclusion follows that such lands would not have been included in a concession carrying or intending to convey to the grantee the fee, and the presumed grant of lands under the Spanish laws of that period were undoubtedly confined to such as might be adapted to agriculture, with a small area for pastoral purposes, although it may also all have been suitable for pasture as well as tillable land; yet it is not probable that this concession extended into and embraced the fee to the mountains (in contravention of the law heretofore quoted) west of the location of the town or settlement of Cañada de Cochiti, where it is claimed Lucero located.

The evidence relative to the boundary calls refers particularly to those named in the copy of the alleged grant document and not to the limits of what was actually reduced to use and possession by Lucero and his heirs, and in no event can its area conflict with other bona fide claims under prior or subsequent concessions, as the fact that such grants were subsequently made of portions of the territory claimed to have been originally granted to Lucero, is evidence that he merely had the usufruct of such regranted premises, if he had any right thereto. Yet as some additional land might have been granted him for pasture as well as for cultivation, under the law at that time, and as the equities of the case appear to justify it, I concede the right to, and approve this claim for so much land as was actually and bona fide used, occupied, and held in the peaceable uninterrupted possession, under claim of title, by Antonio Lucero, his heirs and assigns, under and by virtue of the presumed concession, and by reason of such occupation and possession from time immemorial, and until the change of sovereignty to the United States and thereafter. The extent of the tract so occupied, held, and used, to be clearly shown and established by further evidence to be submitted prior to an official survey thereof, but to be limited and restricted as indicated in this decision.

A transcript in triplicate of all the papers in the case will be transmitted to Congress for its action in the premises.

HENRY M. ATKINSON,
United States Surveyor-General for New Mexico.

UNITED STATES SURVEYOR-GENERAL'S OFFICE,
Santa Fé, New Mex., August 25, 1883.